

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RYAN BERGSTRESSER,</b>	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:12-1464</b>
<b>v.</b>	:	
	:	<b>(JUDGE MANNION<sup>1</sup>)</b>
<b>BRISTOL-MYERS SQUIBB COMPANY<sup>2</sup>,</b>	:	
<b>Defendant</b>	:	
	:	

**ORDER**

In light of the memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

- (1)** the defendant's motion for judgment on the pleadings, **(Doc. No. 9)**, is **GRANTED IN PART AND DENIED IN PART** as follows:
  - (a)** the defendant's motion is granted to the extent that the plaintiff's strict liability claims based upon failure to warn and design defect are dismissed;
  - (b)** the defendant's motion is denied to the extent

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<sup>1</sup>The instant action was originally assigned to the Honorable A. Richard Caputo. By verbal order, on January 7, 2013, the matter was reassigned.

<sup>2</sup>The defendant has provided that it was incorrectly designated "Bristol-Meyers Squibb Company" in the complaint. The correct designation is used herein.

the plaintiff's strict liability claim based upon manufacturing defect will not be dismissed;

(c) the defendant's motion is denied to the extent that the plaintiff's negligence claim based on failure to warn will not be dismissed;

(2) the plaintiff shall file an amended complaint on or before **May 17, 2013**, which cures the deficiencies of his complaint as discussed in the memorandum issued this same day.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: April 24, 2013**

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